

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

MUHAMMED TILLISY.

Plaintiff,

V.

WASHINGTON STATE
DEPARTMENT OF CORRECTIONS,
et. al.,

Defendants.

CASE NO. 18-5695 RJB-JRC

**ORDER DENYING APPEAL
FROM MAGISTRATE JUDGE
ORDER**

THIS MATTER comes before the Court on Plaintiff's appeal of an order of Magistrate J. Richard Creature denying Plaintiff's motion to appoint counsel without prejudice (Dkt. # 33). The Court deems it unnecessary for Defendant to respond to the motion, which is now ripe for consideration.

In denying Plaintiff's motion to appoint counsel, the magistrate judge explained that there is no right to counsel in § 1983 cases and courts appoint counsel only in unusual circumstances. After weighing the likelihood of success on the merits and the complexity of the case, the magistrate judge concluded that Plaintiff had not made a showing of

1 exceptional circumstances and denied the request for appointment of counsel without prejudice.
2 Dkt. 30. Plaintiff was informed that he “may file a new motion for appointment of counsel once
3 the case has further developed.” *Id.*, at 3.

4 Plaintiff’s appeal again argues that he has a vision impairment, making it difficult for his
5 to see ordinary sized print. Dkt. 33. He asserts that he should be appointed counsel.

6 Fed. R. Civ. P. 72 (a) provides:

7 (a) Nondispositive Matters. When a pretrial matter not dispositive of a party's claim or
8 defense is referred to a magistrate judge to hear and decide, the magistrate judge must
9 promptly conduct the required proceedings and, when appropriate, issue a written order
10 stating the decision. A party may serve and file objections to the order within 14 days
11 after being served with a copy. A party may not assign as error a defect in the order not
12 timely objected to. The district judge in the case must consider timely objections and
13 modify or set aside any part of the order that is clearly erroneous or is contrary to law.

14 Applied here, the magistrate judge’s order, denying the motion to appoint counsel
15 without prejudice, (Dkt. 30) should be affirmed. Plaintiff’s appeal does not make a showing of
16 clear error by the magistrate judge in his denial, without prejudice, of the request for
17 appointment of counsel. *See Franklin v. Murphy*, 745 F.2d 1221, 1236 (9th Cir. 1984);
18 *Weygandt v. Look*, 718 F.2d 952, 954 (9th Cir. 1983). Review of the Amended Complaint shows
19 that even if Plaintiff had shown a likelihood of success on the merits, Plaintiff has demonstrated
20 an ability to adequately articulate issues to the Court. The issues raised in the Amended
21 Complaint are not overly complex. At this stage, the Plaintiff’s appeal (Dkt. 33) should be denied
22 and the order (Dkt. 30) affirmed. The case should be re-referred to U.S. Magistrate Judge J.
23 Richard Creatura for further proceedings.

24 It is **ORDERED** that:

- 25 • Plaintiff’s Notice of Appeal (Dkt. 33) **IS DENIED**.

- The Order Denying Motion to Appoint Counsel Without Prejudice (Dkt. 30) **IS AFFIRMED**;
 - The case **IS RE-REFERRED** to U.S. Magistrate Judge J. Richard Creature for further proceedings.

The Clerk is directed to send uncertified copies of this Order to all counsel of record and to any party appearing *pro se* at said party's last known address.

Dated this 5th day of March, 2019.

Robert H. Bryan

ROBERT J. BRYAN
United States District Judge